

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

ORDER
03-CR-140A

PETER HALAS, III,

Defendant.

This case has been referred to Magistrate Judge H. Kenneth Schroeder, Jr., pursuant to 28 U.S.C. § 636(b)(1). Defendant filed an omnibus motion, seeking, *inter alia*, a hearing pursuant to Franks v. Delaware, 438 U.S. 154 (1978), with respect to the affidavit of S.A. Kadan, sworn to November 8, 2002, which was utilized to support the application for an intercept order submitted to Judge Milton Pollack of the Southern District of New York.

On July 21, 2005, Magistrate Judge Schroeder filed a Decision and Order denying defendant's request for a Franks hearing. On September 14, 2005, defendant filed an appeal of the Decision and Order. The matter was submitted without argument on May 26, 2006.

Pursuant to 28 U.S.C. § 636(b)(1)(A), the district court "may reconsider any pretrial matter under this [section] where it has been shown that the magistrate's order is clearly erroneous or contrary to law." Upon review of defendant's objections and Magistrate Judge Schroeder's Decision and Order,

the Court finds that Magistrate Judge Schroeder's Decision and Order is neither clearly erroneous nor contrary to law.

Accordingly, the Court affirms the Decision and Order.

IT IS SO ORDERED.

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

Dated: June , 2006